

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 21-108 (PAM/TNL)

UNITED STATES OF AMERICA,

Plaintiff,

v.

- (1) DEREK MICHAEL CHAUVIN,
- (2) TOU THAO,
- (3) J. ALEXANDER KUENG, and
- (4) THOMAS KIERNAN LANE,

Defendants.

**JOINT MOTION FOR EXPERT
DISCLOSURE AND NOTICE OF
INTENT TO SEEK AN EXPERT
SCHEDULING ORDER**

The United States of America, by and through its attorneys, W. Anders Folk, Acting United States Attorney for the District of Minnesota, and Samantha Trepel, Special Litigation Counsel for the Civil Rights Division, and defendants by and through their counsel, Eric J. Nelson, Robert M. Paule, Thomas C. Plunkett, and Earl P. Grey, hereby move the Court for reciprocal disclosures of experts, and alert the Court that the parties anticipate seeking an expert scheduling order from the Court after a trial date in this matter has been set and after the parties have had a chance to meet and confer in hopes of proposing a joint scheduling request.¹ The parties file this notice of motion now, in an abundance of caution, given that the motions deadline is August 3, 2021, to alert the Court that all parties are likely to offer expert testimony at trial in this case.

¹ There is no specific timing requirement included in the Federal Rules of Criminal Procedure related to expert disclosures. However, the Advisory Committee's Note provides that "it is expected that the parties will make their requests and disclosures in a timely fashion." Fed. R. Crim. P. 16 Advisory Committee's Note, 1993 Amendments.

Pursuant to Rules 16 (a)(1)(G) and 16 (b)(1)(C) of the Federal Rules of Criminal Procedure and Rules 702, 703 and 705 of the Federal Rules of Evidence, the parties request that the Court order the parties to produce a written summary of expert testimony any opposing party intends to offer at trial. This summary must describe the opinions of the witnesses, the bases and reasons for those opinions, and the witnesses' qualifications.

When appropriate, setting the below-described deadlines sufficiently in advance of trial will facilitate an efficient exchange of materials and the pre-trial resolution of factual and legal issues related to expert testimony. An expert witness scheduling order will streamline the presentation of such witnesses, and thus avoid expending time at trial to resolve these matters outside of the presence of the jury.

The parties anticipate that they will ask the court at a minimum to set the following expert-related deadlines:

- (1) A deadline for the parties' initial reciprocal expert disclosures;
- (2) A deadline for the parties' reciprocal disclosure of rebuttal experts;
- (3) A deadline for filing any motions challenging expert qualifications pursuant to *Daubert*, the scope of their proposed testimony, or otherwise; and
- (4) A date to hear any motions challenging the proposed experts.

Dated: August 3, 2021

Respectfully submitted,

W. ANDERS FOLK
Acting United States Attorney

KRISTEN CLARKE
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